

BOARD OF SELECTMEN Meeting Agenda  
Tuesday, July 22, 2014

A meeting of the Rockport Selectmen was held on Tuesday, July 22, 2014 at 7pm in Conference Room A in Town Hall. Present were five selectpersons, the Town Administrator and the Asst. Town Administrator.

7:00 Meeting Called to Order

Pledge of Allegiance and Moment of Silence

Approval of Minutes of July 1 and July 8, 2014:

Selectperson Battistelli moved that the Board of Selectmen approve the minutes of July 1, 2014, seconded by Selectperson Murphy, Vote: 5-0. Amendments: Bearskin Neck Bistro, Selectperson Lucas should be removed from vote. In 4<sup>th</sup> paragraph, removed “grandfathered” add that the sign was permanent before the current by-law.

Approval of  
7/1/14 Minutes.  
Motion  
Approved.

Selectperson Lucas moved that the Board of Selectmen approve the minutes of July 8, 2014, seconded by Selectperson Murphy, Vote: 5-0.

Approval of  
7/8/14 Minutes.  
Motion  
Approved.

Interview of James Theophanis for the Historical District/Historical Commissions:

Selectperson Sheedy moved that the Board nominate James Theophanis as a member of the Historic District/Historical Commissions for a three year term to expire on June 30, 2017, seconded by Selectperson Murphy, no vote taken. Selectperson Battistelli abstained from discussion. J. Theophanis said that this is his third term. He said the Commission reviews projects and remodeling jobs; each review can take several meetings. They are reviewing their procedures to streamline the procedure; they meet two times each month. They would like to have some administrative support assistance; the Town Administrator said they will be receiving six hours each week of assistance.

Interview of  
James  
Theophanis for  
Historical  
District/  
Commissions.  
No vote taken.

Selectmen Updates and Liaison Reports: Selectperson Battistelli said she attended the Finance Committee with the bond advisors, she said it was very informative. The meeting covered where the town stands for both short and long term borrowing. It was stated that tomorrow evening is a 7pm meeting at the library regarding Millbrook Meadow.

Selectmen  
Updates &  
Liaison Reports

Public Comment Period: T. Arsenian, 95 Granite St., said he called Ben Lynch, DEP, regarding the Chapter 91 license amendment. He said he was told by B. Lynch that projects are approved or disapproved in their entirety. He said there are problems with the 400’ dock and he said that the DEP and Army Corp. of Engineers don’t coordinate. He spoke about the ownership of the seabed of the harbor, and said that if Rockport doesn’t contest the claim made by the applicant, it could take years in federal court to resolve. He is requesting that letters be written regarding the license amendment. Chairperson Wilkinson said the Board of Selectmen is addressing the claims regarding the seabed (unique statutory rights) and they have been in contact with Senator Tarr and the Army Corp. of Engineers. T. Tarr, 156 Main St., spoke about the Chapter 91 license and said there is no drainage from Pingree Park; he is concerned about fishing rights off the rocks. J. Theophanis, Main Street, said if the Chapter 91 applicant does receive approval for the dock, there is no schedule for when it will be in or out of the water in a calendar year. This would mean intermittent public access. Lawrence Stepenuck questioned if anything offered orally at that meeting would need to be in writing. Chairperson Wilkinson said any comments made are on the record because the minutes will reflect them. Selectperson Murphy stressed that

Public Comment  
Period

any and all comments should be submitted in writing. Chairperson Wilkinson said the Army Corp. of Engineers approval is still required, even with DEP approval. T. Arsenian questioned if the ACOE will hold a public hearing.

Z. Seppala, 92 Granite St., said if the town can buy property, and test it out before paying for it, he questioned why the new parking meters were paid for before verifying their performance. He commented that the audio quality is unacceptable at Board of Selectmen meetings; he said he can't hear at the meetings.

#### Town Administrator's Report:

- M. Vieira said the Harbormasters received a grant for \$8,500 for the Clean Vessel Act to pump out boats; this is an annual grant.
- He said there is a Millbrook Meadow meeting tomorrow with consultants.
- He said this is the second phase of the grant finder membership review; it costs \$895/year and looks promising.
- The CORI policy is in place, CORIs will be run on new and renewed licenses issued by the town. Employee evaluations will be due soon; there is a new evaluation tool. Managers will have one month to submit them, then they go to the Personnel Board. Selectperson Murphy inquired if the town finger prints candidates prior to hiring them; M. Vieira said this is not included in the process. Selectperson Murphy said finger printing covers all 50 states and the CORI process only provides information from Massachusetts.
- The Town Administrator said she has received a request from the Rotary to sell tickets at Dock Sq. Island for the LobsterFest like last year. As L. Sanders is a member of the rotary, she said she can't give approval so she is asking the Board of Selectmen to approve this. Selectperson Sheedy is also a member of the Rotary.
- The new parking meters were discussed; they are frustrating those that are trying to use them. Selectperson Murphy questioned why other communities are able to work with them successfully. Chairperson Wilkinson said these are different meters. The Town Administrator said she has copied the president of the meter company on some correspondence pertaining to the meters. He said the coastal location has interrupted the modem, due to the moisture, getting the credit card information submitted. He is stating that the modules being replaced now will work. The Town Administrator told the president of the vendor that she is encouraging the Board of Selectmen to put the old meters back. Selectperson Murphy is not in favor of going back to the old meters.

#### 7:35 Action List

Vote on Fall Town Meeting Articles: Selectperson Murphy moved that the Board of Selectmen place these articles on the September 8, 2014 Fall Town Meeting Warrant:

#### Action List:

Vote on Fall Town  
Meeting Articles  
Motion Approved

- A. Unpaid Bills
- B. Transfers for adjustments to the FY15 budget
- C. Treasurer Demand Fee Increase Approval
- D. Transfer from I&I Reserve to a new I&I Removal Capital Account
- E. Establish a Community House Reserve for Appropriation Account
- F. Transfer from the Water and Sewer Debt Service Accounts to the GIS Manager Salary Accounts
- G. Fund Police Union Contract (?)
- H. Community Preservation Committee Report & Recommendations
- I. Transfer CPA Revenues to Community Preservation Accounts
- J. Appropriations from Community Preservation Accounts to CPC Approved Projects

- K. Long Beach Seawall Emergency Action Plan
- L. Access Easement at Pigeon Hill Street and Oakland Avenue
- M. Utility and Access Easement to the South End Water Tower
- N. Discontinuation of Fluoride Supplementation from the Rockport Water Supply (petition article)
- O. Tax Possessed Land Disposition, ask Town Meeting to receive a report on the status of the tax possessed land.

Action List  
(continued)

Seconded by Selectperson Battistelli, Vote: 4-0. Selectperson Lucas abstained. Armand Aparo questioned the options for 59 High Street and inquired about a deed restriction for affordable housing. Selectperson Sheedy said she has requested information on affordable housing and wanted the assessor's information. Chairperson Wilkinson said 59 High Street can be put on the next agenda.

Granite Pier Extension Project: Selectperson Battistelli moved that the Board of Selectmen approve, and ask the Chairperson to sign, a letter to the U.S. Army Corps of Engineers requesting them to perform a Small Navigation Project Study of the extension of Granite Pier as requested by the Harbor Advisory Committee, seconded by Selectperson Sheedy, Vote: 5-0.

Granite Pier  
Extension  
Project  
Motion  
Approved

Skip Montello and Phil Crotty were present to answer questions. They said this was first proposed in 1965. He said there is no cost to the town for the initial appraisal; he has spoken to the Army Corp. of Engineers. If it is a go after one year of study, they would fund the first \$100,000 for the study and 50% of the cost of anything above that would be shared with the town. The Army Corp. of Engineers will pay up to \$7M for construction; the ACOE has jurisdiction over the harbor. There are more than 400 waiting on the mooring list. This could reduce storm damage and could create a year round harbor. The letter is the first step; there is no cost to the town for the first step. Larry Stepenuck said he voted in favor of the letter. He said some questions can be answered locally; he doesn't believe 300 or more moorings could be gained. He recommends a series of workshops be held to get all the information on the table. Chairperson Wilkinson requested that S. Montello put together a timeline. Selectperson Murphy said even 100 new moorings would be a positive outcome for the town; he hears that there is no place to get gas. T. Arsenian said federal tax payers are being asked to pay \$4.5 to \$7M for a hobby with greater convenience for some residents. There isn't parking now and he is concerned about adding 100 to 300 moorings and more automobiles in the area. He asked when the town would vote on this. Chairperson Wilkinson said if any town money is appropriated for this it would require a town vote; this will be a totally open process. L. L'Abbe, 21A Pigeon Hill Street, said she is concerned about the comment about 1965, she said we've learned a lot about the ocean floor and the environment since 1965. Bill Lee said he runs a mooring business and years ago there were 275 moorings for 5,000 residents, now there are 7,500 residents and maybe 300 moorings; he said we need to increase mooring space in Rockport. Steve Ouellette, 2 Gap Head Road, said a lack of moorings has been a significant problem. He said the Harbor Planning Committee recommended this initiative years ago; this is the first step. He said Rockport currently has 17 acres of mooring space, this will add 7 acres of mooring space. He stated that fuel should be supplied in the main harbor, fuel is not available.

Real Estate Sign Approval: Selectperson Lucas moved that the Board of Selectmen approve the placement of a "For Sale" sign, for 90 days, at the corner of Tarr's Lane and Main Street by J Barrett & Company realtors advertising condominiums for sale at 9 Tarr's West Lane, seconded by Selectperson Sheedy, Vote: 5-0.

Real Estate  
Sign Approval  
Motion  
Approved

Appointment of  
Darlene Trumbour  
to Cultural  
Council  
Motion Approved

Appointment of Darlene Trumbour to the Cultural Council: Selectperson Sheedy moved that the Board of Selectmen appoint Darlene Trumbour as a member of the Cultural Council for a one year term to expire on June 30, 2015, seconded by Selectperson Battistelli, Vote: 4-0. Selectperson Murphy abstained.

Appointment of  
Julie Andrews to  
Cultural Council  
Motion Approved

Appointment of Julie Andrews to the Cultural Council: Selectperson Murphy moved that the Board of Selectmen appoint Julie Andrews as a member of the Cultural Council for a one year term to expire on June 30, 2015, seconded by Selectperson Sheedy, Vote: 5-0.

Request for  
Approval of  
Public Art Project  
Motion Approved

Request for Approval of Public Art Project: Selectperson Battistelli moved that the Board of Selectmen grant permission to Rob Trumbour to build temporary public art exhibits on public property at the Headlands, Lumber Wharf, White Wharf, Front Beach and Back Beach that would include bench structures with a strip of LED lighting that would be on from dusk until 11:00 p.m. beginning on August 7, 2014 to October 20, 2014, including set up and breakdown, seconded by Selectperson Sheedy, Vote: 4-0. Selectperson Murphy abstained. It was recommended that the DPW be communicated with and perhaps flyers should be available in the various shops. Selectperson Battistelli moved to amend the motion to state that the structures will have a strip of LED lighting that would be on from dusk until 11pm on 8/7/14 to 8/9/14 and thereafter from dusk until 10pm through October 20, 2014, seconded by Selectperson Sheedy, Vote: 4-0. Selectperson Murphy abstained.

Rockport Fluoride  
Fact Finding  
Committee  
Appointment  
No vote taken.

Rockport Fluoride Fact Finding Committee Appointment: Selectperson Lucas moved that the Board of Selectmen establish an ad hoc Rockport Fluoride Fact Finding Committee and appoint the following persons to said Committee for a one year term to expire on June 30, 2015:

1. Karen Tysver
2. Lawrence Parsons
3. Barbara Goll
4. Inge Sullivan

Selectperson Murphy seconded, Vote: no vote taken. K. Tysver said that all Cape Ann doctors and dentists have been invited for the 8/2 and 8/3 public events to discuss this. Selectperson Murphy said it appears that the committee is one-sided; he said some pro-fluoridation individuals should be invited. K. Tysver said both positions will be represented for the open forum debate. Chairperson Wilkinson said rather than approving the establishment of this committee, the Board of Selectmen should find another way to allow these meetings to take place without forming a committee. What is needed for the 8/2 and 8/3 events are a neutral moderator, janitor expenses, etc. T. Arsenian questioned if this is heading to FTM for a vote. He questioned who decides what goes into the drinking water, the Board of Health or the DPW. The Town Administrator offered space on this issue in the upcoming Voter's Booklet for Town Meeting.

Street Performer  
License for Olivia  
Gale  
Motion Approved

Street Performer License for Olivia Gale: Selectperson Sheedy moved that the Board of Selectmen approve a Street Performer License for Olivia Gale for the 2014 summer season, seconded by Selectperson Battistelli, Vote: 5-0. She said she plays the guitar and sings.

Street Performer  
License for Jeffrey  
Lemire  
Motion Approved

Street Performer License for Jeffrey Lemire: Selectperson Lucas moved that the Board of Selectmen approve a Street Performer License for Jeffrey Lemire for the 2014 summer season, seconded by Selectperson Battistelli, Vote: 5-0. He said he plays the guitar, sings and juggles.

Street Performer  
License for Kiva  
Trumbour  
Motion Approved

Street Performer License for Kiva Trumbour: Selectperson Battistelli moved that the Board of Selectmen approve a Street Performer License for Kiva Trumbour for the 2014 summer

season, Selectperson Sheedy seconded, Vote: 4-0. She said she sings and plays musical instruments. Selectperson Murphy abstained.

Street Performer License for Rowan Rockwell: Selectperson Lucas moved that the Board of Selectmen approve a Street Performer License for Rowan Rockwell for the 2014 summer season, seconded by Selectperson Sheedy, Vote: 5-0. He said he plays the guitar and sings.

Street Performer  
License for  
Rowan Rockwell  
Motion Approved

Boston Post Cane Award to Eleanor Peters: Selectperson Sheedy moved that the Board of Selectmen award the Boston Post Cane it to Eleanor Peters who, at 99 years old is Rockport's oldest citizen, seconded by Selectperson Battistelli, Vote: 5-0.

Boston Post Cane  
Award to Eleanor  
Peters  
Motion Approved

Transfer of Pigeon Cove Lease: Selectperson Murphy moved that the Board of Selectmen approve a Pigeon Cove Wharf Fish Shack Lease transfer from John Halmer to Jason Polisson for a two year term to end on June 30, 2016, seconded by Selectperson Sheedy, Vote: 5-0. He said he has been a fisherman on Pigeon Cove for 38 years. He is purchasing the building as long as lease comes with it.

Transfer of  
Pigeon Cove  
Lease  
Motion Approved

Flag Protocol Revisions: Selectperson Battistelli moved that the Board of Selectmen revise its Flag Protocol as stated in the policy draft dated July 22, 2014, seconded by Selectperson Murphy, Vote: 5-0.

Flag Protocol  
Revisions  
Motion Approved

The Town Administrator said the term internment was problematic given today's practices because some people are not interned. The protocol has been changed to add that the flag will be at half staff for no longer than 3 days.

#### 9:30 Discussion

7/15/14 DEP Chapter 91 Hearing: Chairperson Wilkinson recommends one final letter from the Board of Selectmen and an e-mail from other applicable town boards with their final recommendation should be sent. Selectperson Murphy said the waterways must be open to the public. Selectperson Battistelli said a draft letter from the Board of Selectmen should be send indicating that while in general support of revitalization of this area, we have specific concerns about the Chapter 91 license application, regarding the full extension of the public access walkway and the introduction of floats in the harbor and that they don't negatively impact the federal navigation channel and the movement of the existing commercial and recreational fishermen.

Discussion:

7/15/14 DEP  
Chapter 91  
Hearing

Other Business/Announcements: It was discussed that Selectpersons Battistelli and Murphy will not be available for the 8/5/14 Board of Selectmen Meeting.

Other Business/  
Announcements

Chairperson Wilkinson stated "in the next Executive Session we will be discussing the policy for plowing private roads and I live on Highview Road that is a private road that is being plowed by the town for which I have filed a disclosure with the Town Clerk. On the advice of Town Council I am invoking the Rule of Necessity on behalf of the board so that all the members that otherwise have a conflict of interest under MGL Chapter 268A, Section 19, may participate in the discussion and vote regarding this matter before the board".

Executive  
Session  
Plowing of  
Private Roads  
Rule of Necessity

Selectperson Battistelli stated "I own property on Gannon Court and Pleasant Road, both private roads, for which I have filed a disclosure with the Town Clerk. On the advice of Town Council I am invoking the Rule of Necessity on behalf of the board so that all the

Executive Session  
Plowing of Private  
Roads  
Rule of Necessity

members that otherwise have a conflict of interest under MGL Chapter 268A, Section 19, may participate in the discussion and vote regarding this plowing of private roads”.

Selectperson Lucas stated “I own property on Doyles Cove Road and Sandy Bay Terrace, both private roads, for which I have filed a disclosure with the Town Clerk. On the advice of Town Council I am invoking the Rule of Necessity on behalf of the board so that all the members that otherwise have a conflict of interest under MGL Chapter 268A, Section 19, may participate in the discussion and vote regarding the plowing of private roads”.

Chairperson Wilkinson stated “let the minutes of this meeting indicate that as a result of disqualification of members due to conflicts of interests the board lacked a sufficient number of members necessary to take a valid vote and as a last resort that all those disqualified may now participate and invoke the rule of necessity”.

Enter Executive  
Session  
Motion Approved  
Roll Call Vote

Executive Session – Anticipated Litigation Executive Session: Selectperson Lucas moved that the Board of Selectmen enter Executive Session under MGL Chapter 30A, §21(a) Exception 3: to discuss strategy with respect to litigation, seconded by Selectperson Murphy, Roll Call Vote: Selectperson Battistelli – aye, Selectperson Lucas – aye, Selectperson Murphy – aye, Selectperson Sheedy – aye, Chairperson Wilkinson – aye, all in favor.

Chairperson Wilkinson: “We are entering executive session because, by not doing so, it would be detrimental to the Town’s litigating position and we will not be reconvening in Open Session.”

10pm Meeting Adjourns

Warrant Signed:

Warrant signed for the Fiscal Year 2014 Expenses for the week of 6/30/14 in the amount of \$38,639.17.

Warrant signed for the Fiscal Year 2014 Payroll and Expenses for the week of 7/24/14 in the amounts of \$193,211.71 and \$784,748.74 respectively.

Items Signed:

Request to the Army Corp. of Engineers for a small navigation Project Study  
Street Performer’s License, Olivia Gale  
Street Performer’s License, Jeffrey Lemire  
Street Performer’s License, Kiva Trumbour  
Street Performer’s License, Rowan Rockwell  
Street Performer’s License, James Vassallo  
Street Performer’s License, Rachael Slepian  
Street Performer’s License, Anand Fedele  
Street Performer’s License, Nancy Williams  
Street Performer’s License, Zachary Warren  
Boston Post Cane Award